

***United States Court of Appeals  
for the Second Circuit***



**SUPPLEMENTAL  
APPENDIX**





76-1253

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United States Court of Appeals  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA  
Respondent

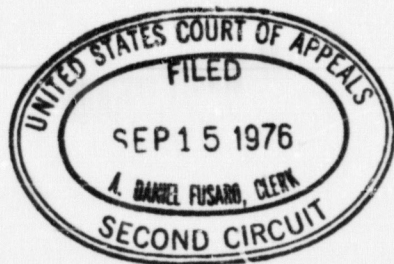
against-

FRED STEINBERG and  
DENNIS RIESE,  
Defendants- Appellants

APPEAL FROM A JUDGMENT OF THE  
UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK

SUPPLEMENTAL APPENDIX OF APPELLANT  
FRED STEINBERG

BARLOW KATZ & BARLOW  
Attorneys for Defendant Appellant  
Fred Steinberg  
233 Broadway,  
New York, New York 10007  
233-0570



ROBERT B. FISKE, JR.  
United States Attorney for the  
Southern District of New York  
Attorney for Respondent  
One St. Andrews Plaza  
New York, New York, 10007

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# STATEMENT

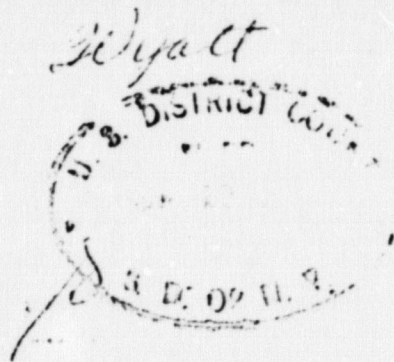
The joint appendix as filed by Appellant Riese contains most of the material essential to the Court for use with both Appellant Steinberg's brief, and Appellant Riese's. However, as there is material contained in Appellant Steinberg's brief which has not been reproduced by Appellant Riese, Appellant Steinberg files this Supplemental Appendix.

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A 1



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

76 Cr. 128 (I.B.W.)

FRED STEINBERG and DENNIS RIESE,

Defendants.

DEFENDANT STEINBERG'S REQUESTS FOR THE VOIR DIRE

BARLOW, KATZ & BARLOW  
Attorneys for Fred Steinberg  
233 Broadway  
New York, N.Y. 10007  
233-0570

JOYCE KRUTICK BARLOW

- Of Counsel -

37

1. Does any juror know, or has he or she had any dealings, either directly or indirectly, with any of the defendants named in the indictment, or with any member of their families, or friends or associates? The defendants are:

Dennis Riese

Fred Steinberg

2. Does any juror know, or has he or she had any dealings, either directly or indirectly, with any of the following persons or members of their families?

(a) Counsel for the United States:

(b) Counsel for the Defendants:

Joyce Krutick Barlow

John J. Grimes

Franklin Viele

3. Does any juror, or his family or close friend know, or has he or they had any dealings with agents of the Immigration Service, or any other governmental agency in the immigration field? If so, what was the nature of the contact?

4. Has any juror, or a relative or close friend, ever been charged with any crime, or been the subject of any investigation by a Congressional or state legislative committee, licensing authority, or by a federal or state



Grand Jury?

5. Has any juror, or a relative or close friend, ever appeared as a witness in any such investigation or in any trial, state or federal?

6. Has any juror, or a relative, either as an individual or in the course of his or her business, ever been a party to any legal action or dispute with the United States or any of the officers, agents or employees or either, or had any interest in such legal action or disposition or its outcome?

7. Has any juror, or relative or close friend, ever acted as a confidential informant or registered informant for any law enforcement agency such as the Immigration Service, Drug Enforcement Administration, Police Department, Federal Bureau of Investigations?

8. Has any member of the panel ever sat as a juror in a criminal case in any court? A civil case? If so, when? Did the case reach a conclusion? What was the conclusion? Based on your prior jury experience, does any member of the panel feel that he or she could not participate in the jury deliberations?

9. Did the Judge make any comment regarding your verdict?

10. If so, did he disagree or express anger as to your verdict?

11. Does any juror have a hearing problem or an uncorrected visual problem?

12. Does any juror on the panel have a personal prior knowledge of this case or of any of the charges set forth in the indictment?

13. Would the fact that part of the evidence in a criminal case includes tape recordings of telephone conversations and meetings preclude any juror from rendering a wholly fair and impartial verdict?

Ability to Render Fair Verdict:  
Pretrial Publicity

Some of the defendants in this case and, to a lesser extent the case itself, have been the subject of some publicity and it would be unrealistic not to recognize that some of you may have read or heard something about it.

However, what appears in the public press or in any news media about a case or individuals allegedly involved therein is not evidence. Cases are tried in the courtroom under prescribed rules of procedure and not in the press or on the radio or on television.

You must not be influenced by anything you may have seen or heard outside the courtroom. The only evidence in a case which may properly be considered is what the jurors hear from the lips of witnesses who in their presence are solemnly sworn to tell the truth and from the documents or other materials received in evidence. Adapted from Judge Weinfeld's *Voir Dire*, United States v. Kahaner 61 Cr. 1113 (S.D.N.Y. 1962), aff'd, 317 F. 2d 459, cert. denied, 375 U.S. 836 (1963).

Therefore, the purpose of the next series of questions is to determine whether you, as jurors, could decide this case according to the evidence herein presented and without reference to any publicity or any facts alleged therein.



14. What newspapers do you read? What news programs do you listen to?

15. Have you read or heard anything about this case or the defendants in this case?

16. When was the last time you read anything about this case?

17. As a result of what you heard or read from any source, did you form or have you expressed an opinion as to the guilt or innocence of any of the defendants?

18. Have you any prejudice, bias, or sympathy with reference to either the government or the defendants on trial because of anything you heard, read or saw which would prevent you from rendering a fair and impartial judgment.

19. In other words, do you conscientiously feel that you can listen to the testimony in this case and arrive at a conclusion as to the innocence or guilt of each defendant, unaffected by anything you may have heard or read concerning the case or as to any individual defendant?

20. Under our system the facts are the province of the jury and the law the province of the court. These two provinces are separate and distinct and just as I may not encroach upon your province, you may not encroach on mine. In other words, when I give you the law at the close of this trial you are required to accept the law as stated. With this in mind is there any juror who feels that for any reason he is not either willing or able to apply the law as stated by the Court?

21. Will each juror accept the proposition of law that the question of punishment is for the Court alone to decide and that possible punishment must not enter into the deliberation of the jurors as to guilt or innocence of each defendant?

22. Will each juror accept the proposition of law that sympathy must not enter into the deliberations of the jurors as to guilt or innocence of the defendants and that only the evidence produced here in Court may be used by you to determine the guilt or innocence of the defendants.

23. What is the county of your residence?

24. Are you married? Children?

25. Is your spouse employed, are your children employed?

26. Are you employed?

27. Who is your employer?

28. What are your responsibilities?

29. Is your spouse employed?

30. Who is his or her employer?

31. What are his or her responsibilities?

32. If you are retired, what was your former occupation?

33. Have any of you participated in a military tribunal or court martial either as judge, prosecutor, or other capacity?

34. If so, what capacity?

35. Would your experience in any way affect your ability to be fair and impartial?



36. Does the fact that Mr. Steinberg has been indicted by the Grand Jury of the Southern District of New York, and is being tried under this indictment, create any impression upon your minds that would require evidence to remove?

37. Will you follow my instruction that the indictment is merely a piece of paper, an accusation, and is proof of nothing?

38. Will you follow my instruction that the prosecution must prove the guilt of Mr. Steinberg beyond a reasonable doubt, and that Mr. Steinberg does not have to prove his innocence?

39. Have you watched the Perry Mason T.V. show? (In which Mason always solves the crime and points out the real guilty party) You understand that this is fictional and Mr. Steinberg has no such burden?

40. If you have a doubt as to Mr. Steinberg's guilt and you can attribute a reason to it, will you hesitate to acquit him?

41. Do you understand that all of the elements of the crime charged must be proven beyond a reasonable doubt, and that if ONE element is not proven, you should acquit Mr. Steinberg?

42. Do you understand that as a result of B.O.P. being on prosecutor Mr. Steinberg may sit mute and say nothing and challenge the Prosecution to prove his guilt beyond a reasonable doubt?

43. Would you consider the fact that he did not testify if I instructed you that no presumption can be drawn against him from his failure to take the stand?

44. Do I have your assurance that you will not allow Mr. Steinberg's failure to testify to enter into your deliberations?

45. Do you feel that because a witness is a law enforcement officer and is sworn to uphold the law that he would be more likely to tell the truth than other witnesses? Would you weigh and evaluate the testimony of such an officer as you would the testimony of any other witness?

46. Is it conceivable to you that a law enforcement officer would come before the Court, take an oath to tell the truth, and then purposely lie or distort the facts of a case?

47. Have you formed an opinion as to Mr. Steinberg's guilt as he sits there now? If so, what is that opinion?

48. Do you understand the Mr. Steinberg is presumed to be innocent, and that this presumption is a substantial right, and not merely something told to you to conform to a technicality?

49. Will you follow the instructions that I give you, that Mr. Steinberg is presumed to be innocent, and that this presumption continues until the prosecution proves his guilt beyond a reasonable doubt?

50. And do you understand that you must give Mr. Steinberg the benefit of this presumption of innocence without any mental reservations whatsoever?

51. And that you are to consider this presumption of innocence as actual proof of innocence unless it is overcome by proof of guilt beyond a reasonable doubt?



52. If at the end of the case you are not convinced of Mr. Steinberg's guilt, but eleven of your fellow jurors felt otherwise, would you abandon your position merely because you were outnumbered?

53. Because the charge is a serious one, would you have any hesitation in voting for acquittal if the Government does not establish their burden?

54. Will you promise to set aside any opinion you may now have and judge this case solely on the evidence introduced during the trial and the instructions of law given to you by the judge?

55. Do you agree to judge this case solely on the evidence before you without letting fear of later criticism affect your verdict?

56. If eleven of the jurors believed that Mr. Steinberg is guilty and you felt he was not guilty, would you change your mind merely because you were in the minority? Would you attempt to show your fellow jurors the reasonableness and logic of your own views?

57. Will you give Mr. Steinberg the same sort of treatment that you would expect if unfortunately you were seated there?

Dated: New York, New York  
March 19, 1976

Respectfully submitted,

BARLOW, KATZ & BARLOW  
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233-0570

JOYCE KRUTICK BARLOW

Of Counsel

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 UNITED STATES OF AMERICA, :

5 vs. :

76 Cr. 128

6 FRED STEINBERG and  
7 DENNIS RIESE, :

8 Defendants. :  
9 -----X

10 BEFORE: HON. INZER B. WYATT, D. J.

11 March 22, 1976

9:45 A. M.

12 APPEARANCES:

13 ROBERT B. FISKE, JR., ESQ.,  
14 United States Attorney for the Southern  
District of New York,

15 BY: LAWRENCE IASON, ESQ.,  
Assistant United States Attorney

16 JOYCE BARLOW, ESQ.,  
17 Attorney for Defendant Steinberg

18 SHEA, GOULD, CLIMENKO, KRAMER & CASEY, ESQS.,  
Attorneys for Defendant Riese

19 BY: MILTON S. GOULD, ESQ., and  
JOHN J. GRIMES, ESQ., Of Counsel

20 and

21 FRANKLIN B. VELIE, ESQ.,  
22  
23  
24  
25



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2 THE COURT: Now, Mr. Clerk, would you call the  
3 case set for trial, please.

4 THE CLERK: United States of America versus  
5 Fred Steinberg and Dennis Riese.

6 Are all parties ready?

7 MR. IASON: The government is ready.

8 MR. GOULD: Defendant Riese is ready.

9 MRS. BARLOW: Defendant Steinberg is ready.

10 THE COURT: All right.

11 Now, ladies and gentlemen, members of the jury  
12 panel, my remarks are really addressed to you primarily, and  
13 I should warn you before I start that the electricity was  
14 turned off over the weekend in this building and that has  
15 affected all of our clocks so you can't rely on any of them.

16 Mr. Clerk, if the building manager doesn't  
17 already know it, maybe we can take occasion to send word that  
18 they have been thrown off.

19 THE CLERK: All right.

20 THE COURT: Now, members of the jury panel, in  
21 serving today on this panel, I am sure you already realize,  
22 as you should, that you are performing a civic duty of great  
23 importance, and we are all anxious for you in discharging that  
24 duty to understand the procedure we follow and to the extent  
25 time permits the reasons for it.

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It will be a criminal case to be tried beginning this morning and the first object is to select a fair and impartial jury of 12 ladies and gentlemen and perhaps some alternates.

It will be necessary for me to ask questions of the members of the panel to help us make certain that no juror has any feeling from whatever cause which might interfere with the fair and impartial performance of his or her duty as a juror, fair and impartial so far as the government is concerned, and fair and impartial so far as each of the two defendants is concerned.

You understand, of course, that my questions are not intended to pry into your personal affairs but are asked only so that the court, the government, the defendants and their counsel can be satisfied that no past experience, personal relationships or the like would be apt to incline you for or against the government or for or against the defendants.

Some questions may be asked about your business, your husband's business, your wife's business, as the case may be. Your answers, of course, must be truthful and under oath, and for this purpose you are all sworn to answer truthfully as to your qualifications as jurors and you may be interested to know that the oath administered to a jury



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2 panel is one of the most ancient forms known to our society.  
3 It goes back at least as far as the 11th century, about the  
4 time of the Norman Conquest in 1066, and to this day is  
5 generally known by an old anglo-French expression, the voir  
6 dire oath, literally meaning, in anglo-French, as I under-  
7 stand it, to say the truth.

8 Mr. Clerk, would you administer the oath to the  
9 panel.

10 (Prospective jury panel sworn.)

11 THE COURT: Now, Mr. Clerk, we have somebody  
12 wandering around in the back with a paper in his hand.  
13 I can't imagine what the difficulty is.

14 MR. IASON: Excuse me, your Honor.

15 THE COURT: Yes. And if it is a witness, we have  
16 got a witness room, and I suppose, Mr. Clerk, we still have  
17 a witness room?

18 THE CLERK: Yes.

19 THE COURT: Is this a witness, Mr. Iason?

20 MR. IASON: No, your Honor, this is a document  
21 just recently served.

22 THE COURT: All right. This is a messenger.  
23 All right.

24 Now, members of the panel, the name of each of  
25 you on a card will be put into the wooden wheel on the

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2 clerk's desk, and then we are going to draw by lot from the  
3 wooden wheel, and we draw by lot again as a further means of  
4 trying to pick a fair and impartial jury.

5 We are going to draw the names of 12 members of  
6 the panel to come forward and take seats in the jurybox.

7 Mr. Clerk, will you please proceed.

8 THE CLERK: Juror Number 1, Edna Warren,  
9 W-a-r-r-e-n.

10 Juror Number 2, Vincent Brescia, B-r-e-s-c-i-a.

11 Juror Number 3, Frederick Winkelman,  
12 W-i-n-k-e-l-m-a-n.

13 Juror Number 4, Martin Schwartz, S-c-h-w-a-r-t-z.

14 Juror Number 5, James Lambert, L-a-m-b-e-r-t.

15 Juror Number 6, Ralph Delorenzo,  
16 D-e-l-o-r-e-n-z-o.

17 Juror Number 7, Edith Williams, W-i-l-l-i-a-m-s.

18 Juror Number 8, John Pettipas, P-e-t-t-i-p-a-s.

19 Juror Number 9, Seymour Schmerler,  
20 S-c-h-m-e-r-l-e-r.

21 Juror Number 10, Nina Kimche, K-i-m-c-h-e.

22 Juror Number 11, Felix Dinielli,  
23 D-i-n-i-e-l-l-i..

24 Juror Number 12, Audry Schamer, S-c-h-a-m-e-r.

25 Will both the jurors in the rear of the court-



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room and those in the jury box please pay attention to the instructions of the Court.

THE COURT: Now, members of the panel, under our practice each side has an absolute right to excuse a certain number of jurors without giving any reason whatever for it. This is sometimes called an absolute or preemptory challenge.

If any of you are excused by one side or the other, you will please understand that that is a normal part of our procedure and is in no slightest way a reflection on your integrity, intelligence or ability to serve here as jurors.

Now, my explanations and questions are directed in the first instance to the 12 ladies and gentlemen who are seated in the jury box, but as the clerk indicated, the members of the panel in the rear of the room are asked to listen carefully so that if you are later asked to come forward and take seats in the jury box, it will not be necessary to repeat all the explanations and questions.

Also, questions asked of you are intended to include members of your immediate family. For example, when I ask, as I will ask, if any of you have been engaged in law enforcement work, the "you" is intended to include any members of your immediate family.

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And if any of my questions requires that you respond with information, if you will just hold up your hand we will understand and come to you.

The indictment in this case charges the defendants with certain offenses against federal law. There are two defendants here on trial, Mr. Fred Steinberg and Mr. Dennis Riese. They are charged with a number of separate offenses against the federal law, most of them that they aided and abetted, counselled and induced certain aliens in this country to offer and give bribes to two investigative officers of the Immigration Service, or its full name is the Immigration and Naturalization Service, but for short I will refer to it simply as the Immigration Service; that the aliens offered and gave bribes to the two investigative officers of the Immigration Service in order to influence those officers fraudulently to provide the aliens with alien registration receipt cards, which I am told are often called simply green cards, to which the aliens were not entitled.

I am told that the two defendants are executives or employed by a chain of restaurants called Brew Burger, and that the aliens were working at one or more of those restaurants.

There is another charge that the two defendants,



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2 Steinberg and Riese, offered the two immigration officers  
3 free meals to influence their official acts and to induce  
4 them, among other things, to disclose confidential information  
5 about immigration investigations of aliens said to be il-  
6 legally employed at Brew Burger Restaurants.

7 There is also a charge that the two defendants,  
8 Steinberg and Riese, conspired with the aliens to give and  
9 offer bribes to the two immigration officers to influence  
10 their official acts.

11 Those are the charges. The two defendants have  
12 each pleaded not guilty, and that raises the issues to be  
13 tried here.

14 Now, ladies and gentlemen, an indictment is merely  
15 an accusation. It is an accusation by a grand jury composed  
16 of persons very like yourselves, and a grand jury is called  
17 a grand jury because it has 23 members as opposed to the  
18 number of a trial jury or, as it is often called, a petit  
19 jury, which has 12 members.

20 So an indictment is an accusation by a grand  
21 jury. It is merely a method by which the prosecution calls  
22 into court persons who are claimed to have violated the  
23 law.

24 As I said, the defendants have pleaded not guilty.  
25 The indictment is not itself any evidence of the guilt of the

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2 defendant, and the fact that they have been indicted does not  
3 detract from the presumption of innocence with which the  
4 law surrounds an accused until his guilt is proved.

5 Now, as I just said, a defendant is presumed to  
6 be innocent of charges made against him and that presumption  
7 continues until the government has established beyond a  
8 reasonable doubt the guilt of a defendant.

9 The burden of proof on the government in a  
10 criminal case never shifts. A defendant does not have to  
11 prove his innocence.

12 Now, ladies and gentlemen, the function of a jury  
13 is to decide questions of fact, and you are to take your  
14 instructions on the law as distinguished from the facts from  
15 me, the court.

16 In carrying out its function, a jury should give  
17 the case a fair and impartial hearing and wait until you  
18 have heard both sides before forming an opinion.

19 Now, my first question is, does any juror in this  
20 panel have any mental reservations about accepting the  
21 principles of law which I have so far explained?

22 Is there anything about the nature of the offenses  
23 charged which would affect your ability to sit as fair jurors?

24 Do you have any sort of feeling about the  
25 offense charged which would interfere with your serving as



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2 fair jurors?

3 P.J. No. 9: I'm sorry, but I won't be able to  
4 come to a decision on a criminal trial. I told them that  
5 downstairs. I'm sorry.

6 THE COURT: You're telling me that you are un-  
7 able to reach a decision as a juror in a criminal trial?

8 P.J. NO. 9: Yes.

9 THE COURT: Why do you say that?

10 P.J. No. 9: Well, on religious principles.

11 THE COURT: All right. We will excuse you.

12 P.J. No. 9: Thank you.

13 THE COURT: All right, Mr. Clerk.

14 THE CLERK: That is Juror No. 9, Seymour  
15 Schmerler, excused. Will you have a seat in the rear,  
16 please.

17 THE COURT: Mr. Clerk, would you also send word  
18 to the jury clerk, because I think this juror ought to be  
19 excused from our rolls.

20 THE CLERK: Yes.

21 Juror No. 9 will be James Disencik, D-i-s-e-n-c-i-

22 THE COURT: Mr. Disencik, do you find any  
23 difficulty with the explanations that I have made and the  
24 one question that I have asked so far which would affect  
25 your ability to sit as a fair juror?

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2 P. J. NO. 9: Yes, sir.

3 THE COURT: What?

4 P. J. NO. 9: During the war I was in the British  
5 Army in Europe and I had a lot to do with aliens and immi-  
6 grants in camps and all that, and I have a certain feeling  
7 about all these things that I wouldn't like to get involved  
8 with.

9 THE COURT: All right. We will excuse you.

10 P.J. NO. 9: Thank you.

11 THE COURT: Now, members of the panel, I hope  
12 that when you answer my questions you will give us only  
13 honest responses and not use an excuse to avoid jury service  
14 which, as I say, is not only a civic responsibility, but it  
15 is a civic duty.

16 All right, Mr. Clerk.

17 THE CLERK: That was Juror No. 9, James  
18 Disencik, excused.

19 Juror No. 9, Dorothy Harding, H-a-r-d-i-n-g.

20 THE COURT: May I ask, please, Ma'am, are you  
21 Mrs. or Miss?

22 P. J. NO. 9: Mrs.

23 THE COURT: Mrs. Harding, do you have any dif-  
24 ficulty with my explanation and my one question so far that  
25 you think would affect your ability to sit as a fair juror?



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P. J. NO. 9: No, sir.

THE COURT: Now, ladies and gentlemen, being a criminal case, it is the government which presents the prosecution side of the case. The government is represented in the district by the United States Attorney, Robert B. Fiske, Jr., and the case here will be tried by an Assistant United States Attorney, Mr. Lawrence Iason.

This is Mr. Iason.

And Mr. Iason, who is helping you at counsel table?

MR. IASON: Richard Ramaizel.

THE COURT: R-a-m-s-e-l-l?

MR. IASON: R-a-m-a-i-z-e-l.

THE COURT: R-a-m-a-i-z-e-l.

Mr. Ramaizel, will you please stand up and let the panel in the back of the room see you.

Now, do any of you know or have had occasion to consult with Robert B. Fiske, Jr., the United States Attorney, Mr. Iason or Mr. Ramaizel?

All right.

Now, the first defendant named in the indictment was Mr. Fred Steinberg, and Mr. Steinberg is here.

Mr. Steinberg, would you stand up, please, sir.

Would you let the panel -- thank you very much.

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2 Do any of you know Mr. Fred Steinberg or any  
3 members of his family?

4 Mr. Steinberg is represented by and his case will  
5 be presented by Mrs. Joyce Barlow.

6 Mrs. Barlow.

7 Thank you, Ma'am.

8 Do any of you know or have had occasion to  
9 consult with Mrs. Joyce Barlow?

10 And Mr. Dennis Riese is the other defendant  
11 named in the indictment.

12 Mr. Riese, would you be good enough to stand,  
13 and if you turn around, please -- thank you.

14 Do any of you know or have you been acquainted  
15 with or had any dealings with Mr. Riese or any members of  
16 his family?

17 And Mr. Riese's case will be presented by Mr.  
18 Milton Gould, his trial counsel.

19 This is Mr. Gould.

20 Thank you, Mr. Gould.

21 And Mr. Gould will be assisted by -- you are  
22 Mr. Grimes?

23 MR. GRIMES: Yes, I am.

24 THE COURT: Mr. Grimes, would you be good enough  
25 to stand?

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And by Mr. Velie, Mr. Franklin B. Velie.

Do any of you know or have you had occasion to consult with Mr. Gould, Mr. Grimes or Mr. Velie?

Thank you.

Did any of you ever hear of this case before today?

How many of you have previously sat as jurors in a trial in this court?

None of you.

Is this your first day of jury service on this occasion?

Today is your first day?

P.J. NO. 5: I was called on a panel and excused last week.

THE COURT: You were called in last week?

P. J. NO.5: Yes.

THE COURT: So this is your second week of service.

P.J. NO. 1: Second week I was called in once.

THE COURT: All right. But I take it that none of you last week served on a jury here or at any other time.

All right.

How many of you have ever served as jurors in any court anywhere?

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2 All right, in the first place, where did you  
3 serve?

4 P. J. NO. 3: Up in White Plains, Westchester  
5 County.

6 THE COURT: Civil or criminal?

7 P. J. NO. 3: Civil.

8 THE COURT: Anything in that experience which  
9 would affect your ability to be a fair juror here?

10 P. J. NO. 3: No.

11 THE COURT: Yes, sir?

12 P. J. NO. 5: I served right here. Not in this  
13 room, though. On a criminal and civil.

14 THE COURT: On criminal and civil cases. Any-  
15 thing in your experience as a juror in any of those cases  
16 which would affect your ability to be a fair juror here?

17 P. J. NO. 5: No, sir.

18 THE COURT: Anybody else?

19 All right.

20 Now, the evidence in this case will include  
21 conversations which were lawfully recorded on tape because  
22 one of the parties to the conversations either consented or  
23 did the recording.

24 Would this circumstance affect your ability to  
25 be fair jurors?



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2 The evidence will also show that the government  
3 used undercover officers in its investigations. Would this  
4 circumstance affect your ability to be fair jurors?

5 Have any of you ever worked for the Immigration  
6 Service?

7 Have any of you ever had any dealings or contacts  
8 with the Immigration Service?

9 Have any of you -- forgetting military service,  
10 have any of you ever been employed by any department or  
11 agency of the United States Government?

12 Are any of you naturalized citizens?

13 Do any of you have any prejudice against a  
14 business for hiring aliens?

15 Would you be prejudiced against a business if it  
16 hired aliens who were in this country illegally but the  
17 employer did not know this?

18 P. J. NO. 5: The employer did not know it?

19 THE COURT: Yes.

20 P. J. NO. 5: That's all right.

21 THE COURT: All right. So I take it none of you  
22 would be affected by that circumstance.

23 All right.

24 Do you know or have you ever heard --

25 MR. GOULD: If your Honor pleases, may we come up

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2 to the side bar with respect to the questions put?

3 THE COURT: Yes.

4 (At side bar.)

5 MR. GOULD: I regret this, but I think the  
6 proof will show that in some instances the employer may well  
7 have known it, so that the juror who raised his hand has  
8 evidenced a prejudice against something that may come out in  
9 the case. I think we are all in agreement that the employer  
10 probably knew that these aliens were not entitled to work.

11 THE COURT: Well, this is a question for the  
12 voir dire that was requested by the defendant and I have  
13 asked it just as it was requested and therefore --

14 MR. GOULD: And we got the response. I am not  
15 critical of your Honor, you understand, but I think the in-  
16 quiry that the man made and his comment indicates a positive  
17 response to the fact that he is prejudiced, and I would ask  
18 that he be excused for cause.

19 THE COURT: No, I won't excuse him for cause.

20 MRS. BARLOW: Your Honor, perhaps you would pose  
21 one further question and that being if the employers were  
22 aware that the aliens did not have proper work permits,  
23 would he then be prejudiced, because his question did -- his  
24 response, rather, to your Honor's question indicated that  
25 that might well be the case.



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2 THE COURT: No, I don't think I will ask any  
3 more questions, and if I had realized that the evidence was  
4 in dispute as to whether the employer knew that the aliens  
5 were in the country illegally I never would have accepted  
6 the question that the defense asked me.

7 MR. GOULD: I understand. They knew the aliens  
8 were here illegally.

9 THE COURT: I feel I was misled by the question  
10 requested by the defense. It is not a proper question if  
11 the evidence is in dispute, and I should not have asked it.

12 Let's have an end to it.

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USA v.

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Steinberg

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(In open court.)

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THE COURT: I was just about to ask you whether you knew or had ever heard of any of the following people who may figure in some way in this case, and I will read the names and, of course, if you know or have heard of them, please raise your hand:

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Special Agent Charles McCormack and George Sibley of the Federal Bureau of Investigation, Giovanni Pirina, Avinash Vashisht, Chayanon Vongchan, Naree Vongchan, Margaret Pugh, Mohammad Ansari, Eamonn Dolan, Phairoj Boonamnuaysuk, Phanvika Tansuttivanich, John Volpe of the Immigration Service, Joseph Bravo, Assistant United States Attorney Joseph Jaffe, Assistant United States Attorney Audrey Strauss, Assistant United States Attorney Robert Gold, Joel Moskowitz of the Immigration Service, Francis Johnson of the Immigration Service, Henry Wagner of the Immigration Service, James Rowland of the Immigration Service, Jack Coffee of the Immigration Service.

20

21

22

23

24

Now, has any member of the panel ever worked for or had any connection with Brew Burger Restaurants, National Restaurants Incorporated, LuChow's, the Auto Pub, the Crowing Cock -- have you ever eaten in any of those restaurants?

25

Did you have any experience in connection with



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2 your visit which would affect your ability to be a fair  
3 jury here?

4 Have any of you ever employed a person or persons  
5 who were not citizens of the United States?

6 Are any of you lawyers or graduates of law  
7 school?

8 Have any of you served as law enforcement  
9 officers?

10 Have any of you ever been arrested or in any  
11 way charged with a crime or been directly involved in any  
12 criminal investigation?

13 Do you have any bias or prejudice against the  
14 Department of Justice or the United States Attorney's Office  
15 or any federal law enforcement agency?

16 Have any of you ever been in a lawsuit or a  
17 controversy with the United States Government or any depart-  
18 ment of the government?

19 P.J. NO. 9: I am currently involved in something  
20 with the IRS at the moment.

21 THE COURT: The Internal Revenue Service. Is  
22 there anything in that circumstance that would affect your  
23 ability to be a fair juror?

24 P.J. NO. 9: I don't believe so.

25 THE COURT: Thank you.

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Aside from the questions that I have asked, do any of you know of any reason you couldn't serve as fair and impartial jurors here?

EXAMINATION OF P.J. NO. 1

BY THE COURT:

Q Are you Miss or Mrs. Warren?

A Mrs. Warren.

Q Are you employed?

A No, I'm a housewife.

Q Does your husband work?

A He has passed away.

Q He died?

A Yes.

Q When he was alive, what business was he in?

A Stevedore.

Q Thank you, Ma'am.

EXAMINATION OF P.J. NO. 2

BY THE COURT:

Q What is your business, Mr. Brescia?

A I'm retired now, retired from the railroad.

Q You worked for a railroad?

A Yes.

Q What sort of work did you do?

A Stevedoring and mail handling.



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2 Q Mail handling and stevedoring?

3 A Yes, and clerking.

4 Q Are you married?

5 A Yes.

6 Q Does your wife work?

7 A No, never worked, housewife.

8 EXAMINATION OF P.J. NO. 3

9 BY THE COURT:

10 Q Mr. Winkelman, what is your business?

11 A I own an auto parts machine shop.

12 Q Are you married?

13 A Yes, sir.

14 Q Does your wife work?

15 A No.

16 EXAMINATION OF P.J. NO. 4

17 BY THE COURT:

18 Q Mr. Schwartz, what is your business?

19 A I work as a part time clerk in a cigar store.

20 Q A part time clerk in a cigar store?

21 A Yes.

22 Q Are you married?

23 A No.

24

25

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2 EXAMINATION OF P.J. NO. 5

3 BY THE COURT:

4 Q Mr. Lambert, what is your business?

5 A Retired railroad employee.

6 Q What kind of work did you do for the railroad?

7 A Well, started out as a helper. I ended up as a  
8 foreman.

9 Q You ended up as a foreman?

10 A Yes.

11 Q Would that be maintenance work?

12 A Yes, sir.

13 Q Are you married?

14 A Yes.

15 Q Does your wife work?

16 A She is also retired.

17 Q When she worked, what did she do?

18 A She worked as a clerk.

19 Q For what kind of business?

20 A County of Westchester, Medicaid.

21 EXAMINATION OF P. J. NO. 6

22 BY THE COURT:

23 Q Mr. Delorenzo, what is your business?

24 A Technician for the Xerox Corporation.

25 Q Are you married?



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2 A No, sir.

3 EXAMINATION OF P.J. NO. 7

4 BY THE COURT:

5 Q Mrs. Williams, are you employed?

6 A No.

7 Q Does your husband work?

8 A He is deceased.

9 Q When he was alive, what kind of business did he  
10 have?

11 A He worked in a hospital.

12 Q Worked in a hospital?

13 A Yes.

14 EXAMINATION OF P.J. NO. 8

15 BY THE COURT:

16 Q Mr. Pettipas, what is your business?

17 A New York Telephone Company, communications  
18 consultant.

19 Q Are you married?

20 A Yes.

21 Q Does your wife work?

22 A Part time once in a while.

23 Q What does she do when she works?

24 A Clerical work.

25 A What kind of business?

1 mccg

2 A Primarily technician, machine parts.

3 EXAMINATION OF P.J. NO. 9

4 BY THE COURT:

5 Q Now, Mrs. Harding, we come to you. Are you  
6 employed?

7 A No, I'm not, sir.

8 Q What does your husband do?

9 A He is a mechanic for the Manhattan-Bronx Surface  
10 Transit Operating Authority.

11 Q He is a mechanic?

12 A That is right.

13 Q Does that mean he fixes buses?

14 A Yes.

15 EXAMINATION OF P.J. NO. 10

16 BY THE COURT:

17 Q Miss Kimche, are you employed?

18 A Yes, I am.

19 Q What do you do?

20 A Bookkeeper.

21 Q What kind of a business?

22 A It is a religious organization?

23 Q A religious organization?

24 A Yes.

25



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2 EXAMINATION OF P.J. NO. 11

3 BY THE COURT:

4 Q Mr. Dinielli, what is your business?

5 A Marine Insurance Underwriting.

6 Q What sort of work do you do?

7 A Accept and reject insurance business.

8 Q Are you married?

9 A No, sir.

10 EXAMINATION OF P.J. NO. 12

11 BY THE COURT:

12 Q Miss Schamer, are you employed?

13 A Not at the moment.

14 Q But when you are employed, what do you do?

15 A I'm a teacher.

16 Q A teacher with the New York --

17 A No, no.

18 Q A private school?

19 A Yes.

20 Q A teacher in private school?

21 A Yes.

22 THE COURT: Thank you very much. Mr. Clerk,  
23 to the defendants for challenge.

24 (Pause.)

2-2 25 THE CLERK: Juror No. 5, James Lambert and

1 mccg

2 Juror No. 8, John Pettipas are excused.

3 Juror No. 5 will now be Frank DeLeo and Juror  
4 No. 8 will be Albert Haas.

5 THE COURT: Mr. DeLeo and Mr. Haas, if I ask you  
6 the same questions I have earlier put to the panel would you  
7 be required to give us any information in response?

8 Do either of you know of any reason why you  
9 can't sit here as fair and impartial jurors?

10 EXAMINATION OF P.J. NO. 5

11 BY THE COURT:

12 Q Mr. DeLeo, what is your business?

13 A I'm a supervisor in an insurance company.

14 Q What kind of insurance?

15 A Give the name of it and everything?

16 Q No, just the type of insurance?

17 A General Accident and Health Insurance.

18 Q Accident and health insurance?

19 A Right.

20 Q And you are a supervisor?

21 A Yes.

22 Q Does that mean on the selling end?

23 A No, my people pay the claims.

24 Q You are in the claims department?

25 A Yes, right.



1 mceg

2 Q Are you married?

3 A No, sir.

4 EXAMINATION OF P.J. NO. 8

5 BY THE COURT:

6 Q Mr. Haas, what is your business?

7 A I'm a retired truck driver.

8 Q You are retired now?

9 A Yes, working part time.

10 Q As a truck driver?

11 A No, for a college.

12 Q What do you do?

13 A Mimeographer.

14 Q You run a mimeograph machine?

15 A That is right.

16 Q Are you married?

17 A Yes.

18 Q Does your wife work?

19 A No.

20 Q Has she ever worked?

21 A She is a demonstrator once in a while.

22 Q A long time ago?

23 A That is right.

24 THE COURT: To the government for challenge.

25 (Pause.)

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2 THE CLERK: Juror No. 10, Nine Kimche, you are  
3 excused.

4 Juror No. 10 will be Villinger Moye.

5 EXAMINATION OF P.J. NO. 10

6 BY THE COURT:

7 Q Mr. Moye, having in mind the questions I have  
8 already asked, if I would put to you the questions would you  
9 be required to make any answers?

10 A No.

11 Q Do you know any reason why you couldn't sit here  
12 as a fair juror?

13 A I do not.

14 Q What is your business?

15 A I work for the schools, the Board of Education  
16 of New York.

17 Q What kind of work do you do?

18 A I'm a fireman in the schools.

19 Q I'm sorry?

20 A Fireman. I'm an assistant engineer. I fire the  
21 boilers for the Board of Education.

22 Q Are you married?

23 A Yes.

24 Q Does your wife work?

25 A Yes.



1 mccg

2 Q What does she do?

3 A She works for the schools too. She is a para-  
4 professional for the Board of Education.

5 THE COURT: Thank you. To the defendant for  
6 challenge, two.

7 THE CLERK: Juror No. 2, Vincent Brescia and  
8 Juror No. 7, Edith Williams are excused.

9 Juror No. 2 will be Alex Mennela and Juror No.  
10 7 will be Lec Kaltman.

11 THE COURT: Mr. Mennela and Mr. Kaltman, if I  
12 were to ask you the same questions I have asked earlier would  
13 either of you be required to give us any information in  
14 response?

15 Do either of you know of any reason why you  
16 couldn't sit here as fair and impartial jurors?

17 EXAMINATION OF P.J. NO. 2

18 BY THE COURT:

19 Q Mr. Mennela, what is your business?

20 A I'm the manager of an OTB Parlor.

21 Q The manager?

22 A The manager of an Offtrack Betting Parlor.

23 Q Are you married?

24 A Yes.

25 Q Does your wife work?

1 mccg

2 A Sometimes.

3 Q What does she do when she works?

4 A Sometimes she does typing.

5 Q Typing part time?

6 A Yes.

7 EXAMINATION OF P.J. NO. 7

8 BY THE COURT:

9 Q What is your business?

10 A I'm retired, semi-retired.

11 Q When you were working full time, what did you do?

12 A Well, I was known as a grainer and decorator to  
13 make imitation wood effects on painted surfaces.

14 Q Are you married?

15 A My wife is deceased.

16 THE COURT: Mr. Clerk, it is the government's  
17 challenge, one.

18 (Pause.)

19 THE CLERK: Juror No. 4, Martin Schwartz,  
20 excused.

21 Juror No. 4 will be Richard Fry.

22 EXAMINATION OF P.J. NO. 4

23 BY THE COURT:

24 Q Mr. Fry, if I asked you the same questions I  
25 earlier put to the panel, would you be required to make any



1 mccg

2 answers?

3 A No, sir.

4 Q Do you know any reason why you can't sit here as  
5 a fair juror?

6 A No, sir.

7 Q What is your business?

8 A I'm self-employed as a taxi driver, a taxi-owner  
9 driver.

10 Q Are you married?

11 A Single.

12 THE COURT: To the defendants for challenge, two.

13 (Pause.)

14 Juror No. 3, Frederick Winkelman and Juror No. 4,  
15 Richard Fry, excused.

16 Juror No. 3 will be Vincent Castello, and Juror  
17 No. 4 will be John Karns.

18 THE COURT: Mr. Karns and Mr. Castello, having  
19 in mind the questions I have already put, if we asked you  
20 those same questions, would you be required to make any  
21 answers?

22 A No.

23 Q Do either of you know any reason why you  
24 couldn't sit here as fair and impartial jurors?  
25

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2 EXAMINATION OF P.J. NO. 3

3 BY THE COURT:

4 Q Mr. Castello, what is your business?

5 A I work for a corporation. I'm a negative  
6 processor in the production department.

7 Q Film?

8 A Film negatives.

9 Q Is it a photographic company?

10 A Yes.

11 Q You work for a photographic company processing  
12 film negatives?

13 A Yes.

14 Q Is that moving or still?

15 A No, that is different kind of film, you know,  
16 for buildings and companies like that.

17 MR. GOULD: Would your Honor inquire as to the  
18 name of the company?

19 Q Would you give us the name of the company?

20 A The Reprostat Corporation.

21 Q Mr. Castello, are you married?

22 A Yes.

23 Q Does your wife work?

24 A No.

25



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2 EXAMINATION OF P.J. NO. 4

3 BY THE COURT:

4 Q Mr. Karns, what is your business?

5 A Messenger in a law firm.

6 Q Are you married?

7 A Single.

8 MR. GOULD: Could we have the name of the law  
9 firm?

10 Q What is the name of the law firm?

11 A Cravath, Swaine, & Moore.

12 THE COURT: The government for one challenge.

13 (Pause.)

14 THE CLERK: Juror No. 6, Ralph Delorenzo,  
15 excused.

16 Juror No. 6, will be Sylvia Mendelson.

17 EXAMINATION OF P.J. NO. 6

18 BY THE COURT:

19 Q Is that Miss or Mrs. Mendelson?

20 A Mrs.

21 Q Mrs. Mendelson, you have heard the questions I  
22 have earlier asked; is that right?

23 A Yes.

24 Q If I asked you the same questions would you be  
25 required to give us any information?

1 mccg

2 A No.

2-3

3 Q Do you know of any reason why you couldn't sit  
4 here as a fair juror?

5 A No.

6 Q Are you employed?

7 A No, I'm a housewife.

8 Q What does your husband do?

9 A He is retired now, but he worked in a trimming  
10 house as a salesman.

11 Q A trimming house for clothing?

12 A Religious articles, too.

13 THE COURT: To the defendants for challenge,  
14 two.

15 (Pause.)

16 THE CLERK: Jurors No. 3, Vincent Castello and  
17 No. 4, John Karns, excused.

18 Juror No. 3 will be Elsa Rossman. Juror No. 4  
19 will be Yetta Tevis.

20 THE COURT: Mrs. Tevis and Mrs. Rossman, you  
21 have heard the questions I have put to the members of the  
22 panel before. If I asked you the same questions would you  
23 be required to make any answers?

24 P.J. NO. 3: Yes, I'm a naturalized citizen.

25 THE COURT: Would that affect your ability to



1 mccg

2 sit here as a fair juror?

3 P.J. NO. 3: No.

4 THE COURT: Mrs. Tevis?

5 P. J. NO. 4: No.

6 THE COURT: Do either of you know of any reason  
7 why you couldn't sit here as fair and impartial jurors?

8 P. J. NO. 3: No.

9 P. J. NO. 4: No.

10 EXAMINATION OF P. J. NO. 3

11 BY THE COURT:

12 Q Mrs. Rossman, are you employed?

13 A No, I'm retired.

14 Q Before you retired, what did you do?

15 A I was a sales lady.

16 Q In what sort of store?

17 A Hammacher Schlemmer.

18 Q Does your husband work?

19 A He is retired too.

20 Q What did he do?

21 A He was in the liquor business.

22 EXAMINATION OF P. J. NO. 4

23 BY THE COURT:

24 Q Mrs. Tevis, are you employed?

25 A Yes.

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2 Q What do you do?

3 A I'm a clerk for General Motors Corporation.

4 Q You work for General Motors doing clerical work?

5 A Yes.

6 Q Does your husband work?

7 A Yes.

8 Q What does he do?

9 A He owns his own business.

10 THE COURT: To the government.

11 (Pause.)

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THE CLERK: Juror No. 4 excused.

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Juror No. 4 will be Peter O'Connell,

4

O'C-o-n-n-e-l-l.

5

EXAMINATION OF P.J. NO. 4

6

BY THE COURT:

7

Q Mr. O'Connell, if I asked you the same questions

8

I asked the others earlier, would you be required to make

9

any answers?

10

A Only that I am a naturalized citizen, your Honor.

11

Q Would that affect your ability to be a fair

12

juror?

13

A No, sir.

14

Q Do you know of any reason you couldn't sit here

15

as a fair juror?

16

A None whatsoever.

17

Q What is your business?

18

A I'm a warehouseman.

19

Q For a public warehouse?

20

A No, I work for the RCA and Whirlpool distributor

21

for the metropolitan area.

22

Q RCA-Whirlpool distributor for the New York

23

Metropolitan area?

24

A Yes.

25

Q As a warehouseman?

1 jkcg

2 A Yes.

3 Q Thank you. Are you married?

4 A Yes, sir.

5 Q Does your wife work?

6 A Yes, she does.

7 Q What does she do?

8 A She is an assistant dietician in the Kingsbridge  
9 Veterans Hospital, Bronx, New York.

10 THE COURT: Thank you. For the defendant,  
11 challenge one.

12 (Pause.)

13 THE CLERK: Juror No. 4, Peter O'Connell excused.  
14 Juror No. 4 will be Rose Krohta, K-r-o-h-t-a.

15 EXAMINATION OF P.J. No. 4

16 BY THE COURT:

17 Q Are you Mrs. or Miss?

18 A Miss.

19 Q Miss Krohta, you have heard the questions I have  
20 asked. If I put the same questions to you would you be  
21 required to give us any information?

22 A No.

23 Q Do you know any reason you couldn't sit here as  
24 a fair juror?

25 A No.



1 jkcg

2 Q Are you employed?

3 A Yes, I am.

4 Q Where?

5 A Westchester County, clerical work.

6 Q Clerical work in Westchester County. What  
7 department?

8 A Weights and Measures.

9 Q Weights and Measures in White Plains?

10 A Yes.

11 THE COURT: All right. Thank you. For the  
12 government, challenge one.

13 (Pause.)

14 THE CLERK: Juror No. 12, Audrey Schamer,  
15 excused.

16 Juror No. 12 will be Helen Ledgard, L-e-d-g-a-r-d.

17 EXAMINATION OF P. J. NO. 12

18 BY THE COURT:

19 Q May I ask, please, Ma'am, are you Mrs. Ledgard  
20 or Miss?

21 A Mrs.

22 Q Mrs. Ledgard, if I asked the same questions I  
23 asked the others, would you be required to make any answers?

24 A No, sir.

25 Q Do you know any reason you couldn't sit here as

1 jkcg

2 a fair juror?

3 A No, sir.

4 Q Are you employed?

5 A Yes.

6 Q What do you do?

7 A Governess.

8 Q Does your husband work?

9 He is deceased.

10 THE COURT: Thank you, Ma'am.

11 To the defendants, challenge one.

12 (Pause.)

13 MR. GOULD: The jury is satisfactory to the  
14 defendants, your Honor.

15 THE COURT: All right.

16 To the government for challenge, one.

17 (Pause.)

18 THE CLERK: Juror No. 6, Sylvia Mendelson,  
19 excused.

20 Juror No. 6 will be Kenneth Aiken, A-i-k-e-n.

21 EXAMINATION OF P. J. NO. 6

22 BY THE COURT:

23 Q Mr. Aiken, if I asked you the same questions I  
24 have earlier asked the panel, would you be required to make  
25 any answers?



1 jkcg

2 A Well, I have been on civil and criminal cases  
3 before as a juror.

4 Q In this court or in other courts?

5 A This and Bronx.

6 Q This and in the Bronx. Anything in your exper-  
7 ience in those cases that would prevent your being a fair  
8 juror here?

9 A No.

10 Q Do you know any reason you couldn't sit as a fair  
11 juror here?

12 A No.

13 Q What is your business?

14 A Offset Printing.

15 Q Are you married?

16 A Yes.

17 Q What does your wife do?

18 A Housewife.

19 Q She doesn't work?

20 A She doesn't work.

21 THE COURT: All right, thank you very much.

22 MR. GOULD: Would you inquire as to the name  
23 of Mr. Aiken's employer?

24 THE COURT: Yes. What is the business name of  
25 your company?

1 jkcg

2 P. J. NO. 6: Daniels Company in New York.

3 THE COURT: Mr. Clerk, will you swear the jury,  
4 please.

5 (A jury of 12 was duly impaneled and sworn.)

6 THE COURT: Now, Mr. Clerk, let's pick two  
7 alternate jurors.

8 THE CLERK: Alternate No. 1 will be Mary Ann  
9 Geelan, G-e-e-l-a-n. Take the first seat in the third row.

10 Alternate No. 2, Clark Hall, H-a-l-l.

11 THE COURT: Do we pronounce your name correctly,  
12 Geelan?

13 P. ALTERNATE J. NO. 1: That's right.

14 THE COURT: Is it Miss or Mrs.?

15 P. ALTERNATE J. NO. 1: Mrs.

16 THE COURT: Mrs. Geelan and Mr. Hall, you have  
17 heard the questions I asked earlier this morning. If we  
18 asked you the same questions would you be required to make  
19 any answers?

20 P. ALTERNATE J. NO. 1: No.

21 P. ALTERNATE J. NO. 2: No.

22 THE COURT: Do either of you know any reason  
23 why you couldn't sit here as fair jurors?

24 P. ALTERNATE J. NO. 1: No.

25 P. ALTERNATE J. NO. 2: No, sir.



1 jkcg

2 EXAMINATION OF P.ALTERNATE J. NO. 1

3 BY THE COURT:

4 Q Mrs. Geelan, are you employed?

5 A No, sir.

6 Q What does your husband do?

7 A Carpet layer.

8 EXAMINATION OF P.ALTERNATE J. NO. 2

9 BY THE COURT:

10 Q And Mr. Hall, what is your business?

11 A I am a professional fund raiser.

12 Q Are you married?

13 A Yes, I am, and my wife is in new accounts in  
14 the Manhattan Savings Bank.

15 THE COURT: Thank you. To the defendants,  
16 challenge one.

17 MR. GOULD: Would your Honor be good enough to  
18 inquire of Mr. Hall as to whether he works for a company,  
19 an organization?

20 THE COURT: Mr. Hall, are you self-employed or  
21 do you work for a company?

22 P. ALTERNATE J. NO. 2: I am self-employed, but  
23 I have been the national campaign director for U. S. O. for  
24 about 17 years till I went into business for myself.

25 THE COURT: All right.

1 jkcg

2 MR. GOULD: May I request your Honor to remind  
3 Mr. Hall of your Honor's previous questions as to whether  
4 they knew anybody connected with the defense or counsel for  
5 the defense?

6 THE COURT: Mr. Hall, do you know anybody at  
7 these two tables?

8 P. ALTERNATE J. NO. 2: I don't know them or  
9 anybody mentioned, either.

10 THE COURT: All right.

11 MR. GOULD: We challenge Mr. Hall.

12 THE COURT: All right. You are excused, Mr. Hall.

13 THE CLERK: Alternate No. 2, Mr. Hall, you are  
14 excused.

15 Alternate No. 2 will be John Martin, M-a-r-t-i-n.

16 P. ALTERNATE J. NO. 2: I have an observation  
17 to be made and I think it might be best made in private.

18 THE COURT: All right. I will see you at the  
19 side bar.

20 (At side bar.)

21 P. ALTERNATE J. NO. 2: If it turned out that  
22 the company was involved in this, in the back of my mind  
23 would be the idea that the company or its officers should be  
24 on trial.

25 THE COURT: Well, do you think that your feeling



1 jkcg

2 would prevent you being a fair juror?

3 P. ALTERNATE J. NO. 2: In that case I could not  
4 give a fair deal to the government.

5 (Open court.)

6 THE COURT: May I see counsel.

7 (At side bar with counsel and P. Alternate J.  
8 No. 2.)

9 THE COURT: I think this member of the panel had  
10 better say in the hearing of counsel what he said to me  
11 because I am not exactly sure that I understand it.

12 P. ALTERNATE J. NO. 2: If it turns out that the  
13 company was involved in this, in the back of my mind would  
14 be the idea that the company or its officers should be on  
15 trial, not these individuals, so based on that I don't think  
16 I could give a fair shake to the government.

17 THE COURT: I think I am prepared to excuse this  
18 juror. Any objection?

19 MR. GOULD: I have no objection.

20 THE COURT: All right, we will excuse you.

21 (Open court.)

22 THE CLERK: Alternate No. 2, John Martin, excused.  
23 Alternate No. 2 will be Dorothea Gibbs,

24 G-i-b-b-s.  
25

1 JKCG

2 EXAMINATION OF P. ALTERNATE J. NO. 2

3 BY THE COURT:

4 Q May I ask, please, are you Mrs. or Miss Gibbs?

5 A Miss.

6 Q Miss Gibbs, you have heard the questions I earlier  
7 put to the other members of the panel. If I asked you the  
8 same questions would you be required to make any answers?

9 A No.

10 Q Do you know any reason you couldn't sit here as  
11 a fair juror?

12 A No.

13 Q Are you employed?

14 A No.

15 Q Do you go to school?

16 A No.

17 Q You live with your parents?

18 A No.

19 THE COURT: Mr. Clerk, the government for  
20 challenge, one.

21 (Pause.)

22 MR. IASON: The jury is satisfactory to the  
23 government, your Honor.

24 THE COURT: All right. Will you swear the two  
25 alternates, Mr. Clerk.

(Two alternate jurors duly impaneled and sworn.)



1 23 mcsr Volpe - direct 108

2 say and what did Mr. Steinberg say to the best of your  
3 recollection on March 31, 1975?

4 A Mr. Steinberg said, "Hello," and he immediately  
5 asked if we could work something out; again, if we didn't  
6 have to take all his help, if we could leave some of his  
7 help, just take some of his help. He would vouch for  
8 the help that we left behind.

9 He also stated -- he also said the same  
10 question that he said to me on March 19: The Lindsay  
11 administration was bought and that the Police Department  
12 was taken care of because I had asked the question --

13 MRS. BARLOW: Objection. He stated that  
14 Mr. Steinberg said the same question. I don't see any  
15 question in that. I object to the characterization.

16 THE COURT: Mr. Reporter, read the answer.  
17 I thought he was giving us or stating what Mr. Steinberg  
18 had said, but I could be wrong. Would you read the  
19 answer as far as it has gone?

20 [Answer read.]

21 THE COURT: Now, Mrs. Barlow, I'm not sure  
22 I understood what your objection was.

23 MRS. BARLOW: It was a characterization that  
24 Mr. Volpe was relating a question; that Mr. Steinberg  
25 made the statement and that he then began to relate some-

24 mcsr

Volpe - direct

109

1 thing. It is not a question. If he is relating the  
2 conversation, the I object.  
3

4 THE COURT: I understand that he is relating  
5 a conversation. I will overrule the objection. and permit  
6 him to continue and finish his answer.

7 Finish your answer.

8 A Yes, your Honor. I asked Mr. Steinberg how  
9 he was able to get to the Brew and Burger so quickly  
10 after Immigration arrived to conduct an investigation  
11 and Mr. Steinberg said to me that he was allowed to park  
12 his car outside in front of any of the stores and just  
13 put a pass-card in the window that said, Brew Burger  
14 supervisor," and the police would pass his car by.

15 Now, the question that he posed, that he asked  
16 me March 19 about the Lindsay administration being bought  
17 and the police department being taken care of at that  
18 time, when he said the question again in front of my  
19 partner, my partner said to him that if he said something  
20 like that again he'd arrest him.

21 Q Who was your partner?

22 A Mr. Moskowitz.

23 Q Was there any other conversation during this  
24 evening?

25 A Mr. Steinberg said to us then what he was



1 25 mcsr Volpe - direct 110  
2 really afraid of about Immigration was that his girl  
3 friend was here illegally in this country and that if  
4 we would do something for her, so that she wouldn't get  
5 picked up and sent back to Thailand -- I said it is  
6 possible that we could give the girl a pass to come into  
7 our office at a later date.

8 Q What, if anything, did you do?

9 A I wrote out a business card for Mr. Steinberg  
10 to give to his girl friend, whom I had never met.

11 Q What did you put on this card?

12 A We put my name on it, Mr. Moskowitz' name  
13 or phone number and that she was passed in for a later  
14 date.

15 MR. GOULD: I move to strike that out.  
16 If we are going to get what the card said, we'd better  
17 get the card.

18 THE COURT: I will permit it to stand.

19 Q What did you do with the card?

20 A I gave it to Mr. Steinberg after I filled it  
21 out.

22 Q I show you what has been previously marked  
23 38 for identification. Can you identify it?

24 A United States Department of Justice,  
25 Immigration --

1 2 jksr Volpe - direct

2 MRS. BARLOW: Your Honor, may I have a voir  
3 dire on it, the tape? I would like to ask Mr. Volpe a  
4 few questions about the tape.

5 THE COURT: All right.

6 MR. GOULD: Would you just hold it one second?  
7 May we just have a moment, your Honor?

8 THE COURT: Of course.

9 [Pause.]

10 MRS. BARLOW: If I might, your Honor?

11 THE COURT: Yes.

\*\*\*

12 VOIR DIRE EXAMINATION

13 BY MRS. BARLOW:

14 Q Mr. Volpe, I am going to give this recorder  
15 back to you and ask you a few questions about it.

16 Is that the actual tape recorder that you were  
17 wearing on your body on the date that the conversation  
18 took place?

19 A I don't know if it is the exact same one, but  
20 it is an exact duplicate of the one I did wear.

21 Q And was the machine itself taped to your body?

22 A Yes, and the plug was taped down on.

23 Q When you left the restaurant did you go back  
24 to your offices?

25 A No. I went back into the car, picked up by



3 jksr Volpe - direct

the FBI on this meeting, went back to 69th Street to the  
FBI building.

Q Did someone remove the tape from your body?

A Mr. McCormack and Mr. Sibley, Special Agents.

Q Did you make any notations or memoranda on  
the reel at that time?

A We made an introduction on it,

Q Did you personally make any notations to  
identify the reel at the time it was removed from your  
body?

A No.

Q When was the first time after it was removed  
from your body that you again saw the tape?

A This past week.

Q Do you have any personal knowledge as to who  
had custody of that tape between March 19, 1975 and  
March 20, 1976?

A The FBI.

Q Do you have any personal knowledge as to what  
individuals had custody of that tape at that time?

A No.

MRS. BARLOW: Your Honor, I object to the  
introduction into evidence.

THE COURT: Overruled.

FS

I remember a case a long time ago where that LAMARCA (ph) kidnapped that little infant. He was the last guy to get the death penalty. Everybody knew about it. It was headlines and had pictures of him strapped into the chair.

JM

That guy is waiting six years to get gassed or something. It's up to the court to do something.

JV

Had a lot of time to think of something to do

FS

Those guys are suffering more than if they got the chair.

JV

Look at that one fellow who became a lawyer. Put himself through law school while he was on death row.

FS

Should be a hot summer with all this unemployment.

JM

(Inaudible) a magnum, that's what I'm wearing right now.

FS

You can't see it.

JM

No problem (Inaudible) if I have to use it (Inaudible) do what it's supposed to do. No questions asked, right?  
A .38 isn't (Inaudible) won't stop.

JP

No

JM

Unless your standing right (Inaudible) maybe I don't have a .38, I have a 357 magnum.

FS

Boy that's a big gun

Group

Inaudible

JM

I'm wearing it, no problem, maybe a half pound heavier than a .38



A 62

JV

I carry one too.

Defendant Fred Steinberg asserts that he was a victim of entrapment as to the offense charged in the indictment. More particularly Defendant Fred Steinberg asserts that he relied upon the advice and counsel of the government agents, who he knew to be government agents, at that time, and that during the course of the acts recited in the indictment and until the time of arrest he firmly believed his conduct to be lawful and in accord with the wishes, instruction and advice of the agents of the government.

Where a person has had no previous intent or purpose to violate the law, but is induced, counseled and persuaded by government agents to do any act, by affirmative conduct, or omits to do an act which the Government now charges to be illegal acts, he is a victim of entrapment, and the law as a matter of policy forbids his conviction in such a case.

The question of entrapment involves two issues. The first issue is whether the defendant was led or induced to commit the crime by anyone acting for the government. That is, did the government initiate the transaction? On this issue, and only on this issue, the defendant has the burden of proof. He does not have to prove it beyond a reasonable doubt but he must prove it by a fair preponderance of the evidence. That is, he must satisfy you that it is more likely than not that the government initiated the transaction involved in this case. If you do ~~not~~ find such inducement then you must consider the second issue.



<sup>23</sup>  
REQUEST NO. 22(cont)

The second issue is whether the defendant was ready and willing to commit the crime without persuasion. This is sometimes expressed as an issue of whether he had a propensity to commit the acts. On this issue the government has the burden of proof and it must prove it beyond a reasonable doubt.

Simply put, this means that the government must prove to you beyond a reasonable doubt that the defendant had a previous intent or purpose to commit an offense of the character charged. Should the government fail to prove this beyond a reasonable doubt, and you find that Mr. Steinberg was induced and persuaded by the government agents, to commit the alleged acts, then it is your duty to acquit the defendant and render a verdict of not guilty.

UNITED STATES v. BRAVER, 450 F.2d 799, (2d Cir. 1971), cert.  
denied 405 U.S. 1064

IFP

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Docket Number 76 Cr. 128

v.

Inzer B. Wyatt

(District Court Judge)

FRED STEINBERG and DENNIS RIESE,  
Defendants.

## NOTICE OF APPEAL

Notice is hereby given that Fred Steinberg

appeals

the United States Court of Appeals for the Second Circuit from the ☒ Judgment ☐ order ☐ other  
(specify) conviction after trial \* entered in this action on May 21, 1976

\*on Cnt. 1 Viol. 18 U.S.C. 201(b), Cnt. 2, 10 U.S.C. 201(b), Cnt. (Date)  
3, 10 U.S.C. 201(b) & 2, Cnt. 4, 10 U.S.C. 201(b) & 2, Cnts. 5, 6, & 7, 10 U.S.C. 201(b) & 2

Date May 25, 1976

To: Def's Address  
860 HAMPTON St.  
Elmhurst, N.Y.

U.S. Atty

Address

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Phone Number

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ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

## ▶ QUESTIONNAIRE

☐ I am ordering a transcript☒ I am not ordering a transcript

Reason:

☒ Daily copy is available☐ U.S. Attorney has placed order☐ Other. Attach explanation

## ▶ TRANSCRIPT ORDER

Prepare transcript of

☐ Pre-trial proceedings☐ Trial☐ Sentence☐ Post-trial proceedings▶ DESCRIPTION OF PROCEEDINGS  
FOR WHICH TRANSCRIPT IS  
REQUIRED (INCLUDE DATE).

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ▶ Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature

Joyce Krutick Barlow

DATE

5/28/76

## ▶ COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and  
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number  
of pages.

Date

Signature

BEST COPY AVAILABLE

(Court Reporter)